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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/802,449	03/09/2001	Peter W. Johnson	PJ0101US	7014
22849	7590	05/27/2004	EXAMINER	
SCOTT W HEWETT 400 WEST THIRD STREET #223 SANTA ROSA, CA 95401			LIU, MING HUN	
			ART UNIT	PAPER NUMBER
			2675	

DATE MAILED: 05/27/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/802,449

Applicant(s)

JOHNSON, PETER W.8

Examiner

Ming-Hun Liu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 16 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 9, 10, 15 and 19-21 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 11-14, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Allowable Subject Matter

Claims 7, 8, 11-14, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Arguments concerning the rejection of claim 1: The motivation behind combining the Chiang and Shattuck was not to form a new combined invention that anticipates the claimed invention. Rather, the Chiang reference was used to demonstrate the button make up of conventional computer mice. Shattuck's invention is the addition of a lever to the conventional mouse, a conventional mouse that Shattuck chooses not to elaborate in his disclosure. Simply stated, the Chiang reference was used to establish how a conventional mouse button is attached to mouse, the reference that the rejection relies almost entirely upon is the Shattuck reference.

In reference to the applicant's use of the word "resembles", the examiner agrees with the applicant's arguments and would like to clarify by elaborating on intended meaning of the word. In the context of the sentence, the examiner used the word "resembles" to relay the idea that in a broad interpretation of the claim language, the Shattuck reference can read on the applicant's claimed invention.

With the assistance of Chiang's reference it is clear that the mouse disclosed by the Shattuck reference includes two fulcrums. The particular embodiment depicted by figure 9 was selected so that the second fulcrum can be more easily identified. In response to the applicant's

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argument that the second fulcrum is falsely identified, the examiner would like to refer to Webster's definition of the word "fulcrum". Fulcrum: "the support about which a lever turns." In light of this definition, it is clear that Shattuck's "swivel socket (that) provide(s) a means of altering the angular disposition" certainly includes a fulcrum.

Finally, the examiner agrees with the applicant that his invention differs from Shattuck's invention, however the distinctions that the applicant made in the arguments for claim 1 are absent from the actual claim language.

Arguments concerning the rejection of claim 2: The examiner's intention was to establish two instances that exemplified the flexing capabilities of the lever. It is clear the both figure 2 and the description on column 11, lines 2-8, that the levers may be flexed.

The examiner agrees with the applicant that his invention differs from Shattuck's invention, however the distinctions that the applicant made in the arguments for claim 2 are absent from the actual claim language.

Arguments concerning the rejection of claim 5: The examiner does not believe that he is altering Shattuck's invention past what Shattuck has disclosed in his specifications. First, shown in figure 3 is a lever that is orientated backwards. Second, on column 9, line 66 – column 10, line 3, Shattuck states that the "user can vary the position of the vertical member so that a thumb, index finger, or any finger or member can accurately operate the control buttons."

Arguments concerning the rejection of claim 9. The figures 4a and 4b in conjunction with the disclosure on column 10, lines 12-25, shows a beam that can be flexed to a certain angle. A flexible beam coincides with the definition of spring beam,

Arguments concerning the rejection of claim 6: As shown in the discloser column 6, lines 30-32, Shattuck understands that the different positioning of the lever affects the force required to activate the button. This fact is obvious to the simple machine lever art.

Arguments concerning the rejection of claim 15: The plunger being attached to a switch button is commonly present in the mice known in the art as made apparent by Chiang in figure 7, where plungers are attached to the bottom of the switch buttons.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ming-Hun Liu whose telephone number is 703-305-8488. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steve Saras can be reached on 703-305-9720. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ming-Hun Liu



DENNIS-DOON CHOW
PRIMARY EXAMINER